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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2013-935*

12 **SCOTT WINN MCLEAN**
13 **1210 Parklane Road, Apt. 12E**
McComb, MS 39648

A C C U S A T I O N

14 **Registered Nurse License No. 605445**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about August 27, 2002, the Board issued Registered Nurse License Number
23 605445 to Scott Winn Mclean ("Respondent"). Respondent's registered nurse license expired on
24 October 31, 2005.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

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1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct . . .

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12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action . . .

15 **COST RECOVERY**

16 6. Code section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case. Nothing in section 125.3 shall preclude the Board from including the
20 recovery of the costs of investigation and enforcement in any stipulated settlement.

21 **CAUSE FOR DISCIPLINE**

22 **(Disciplinary Actions by the Mississippi Board of Nursing**
23 **and Louisiana State Board of Nursing)**

24 7. Respondent is subject to disciplinary action pursuant to Code section 2761,
25 subdivision (a)(4), on the grounds of unprofessional conduct, in that he was disciplined by the
26 Mississippi Board of Nursing ("Mississippi Board") and Louisiana State Board of Nursing
27 ("Louisiana Board"), as follows:
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1 a. On or about February 22, 2011, pursuant to the Final Order in the disciplinary
2 proceeding titled "In the Matter of Mississippi License No. R-851779 Issued to: Scott W.
3 Mclean", the Mississippi Board revoked Respondent's license to practice as a registered nurse in
4 the state of Mississippi. A true and correct copy of the Final Order is attached as **exhibit A** and
5 incorporated herein by reference. Based on the sworn testimony and other evidence admitted into
6 the record at the hearing before the Hearing Panel of the Mississippi Board, the Board found as
7 follows: On or about December 14, 2010, Respondent was arrested by the Jackson Police
8 Department and charged with 3 counts of sexual battery to patient S while employed at Central
9 Mississippi Medical Center. Specifically, Respondent massaged the vagina of patient S on 3 or 4
10 different occasions until she climaxed. Patient S was heavily sedated on each of these occasions.

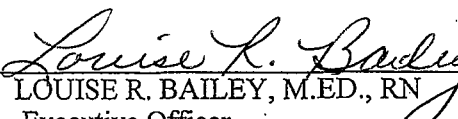
11 b. On or about June 14, 2011, the Louisiana Board suspended Respondent's license to
12 practice as a registered nurse in the state of Louisiana until such time as the matter referred to in
13 subparagraph (a) above is "cleared with the Mississippi Board". A true and correct copy of the
14 Louisiana Board's Order is attached as **exhibit B** and incorporated herein by reference.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Revoking or suspending Registered Nurse License Number 605445, issued to Scott
19 Winn Mclean;
20 2. Ordering Scott Winn Mclean to pay the Board of Registered Nursing the reasonable
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions
22 Code section 125.3;
23 3. Taking such other and further action as deemed necessary and proper.
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25 DATED: APRIL 19, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

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EXHIBIT A

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FINAL ORDER OF THE MISSISSIPPI BOARD

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MISSISSIPPI

BOARD OF NURSING

1080 River Oaks Drive, Ste. A-100
Flowood, MS 39232
Telephone: (601) 664-9303
Facsimile: (601) 664-9304



February 22, 2011

CERTIFIED MAIL 91 7108 2133 3937 0230 5997

**SCOTT W. MCLEAN
1210 PARKLANE ROAD #12E
MCCOMB, MS 39648**

RE: FINAL ORDER

Dear Sir/Madam:

Please find enclosed the Final Order of the Mississippi Board of Nursing signed by the Executive Director pertaining to your February 2, 2011 hearing.

If you have any questions relative to this matter, please do not hesitate to contact the Legal Dept. at (601) 664-9303 with kindest regards, I remain

Sincerely,

Melinda E Rush

Melinda E Rush, DSN, FNP
Executive Director

MER:am

Enclosure: Final Order

**BOARD OF NURSING
STATE OF MISSISSIPPI**

**IN THE MATTER OF MISSISSIPPI
LICENSE NO. R-851779 ISSUED TO:**

**SCOTT W. MCLEAN
1210 PARKLANE ROAD #12E
MCCOMB, MS 39648
Respondent**

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* **REVOCATION OF NURSING
LICENSE**
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*

DATE OF BIRTH: 09/23/1957

FINAL ORDER

THIS CAUSE came before a Hearing Panel comprised of three (3) members of this Honorable Board for a hearing on the 2nd day of February, 2011, in the hearing room at the office of the Mississippi Board of Nursing located at 1080 River Oaks Drive, Suite A-100, Flowood, Mississippi 39232-9779, to determine whether it should impose disciplinary action against the nursing license and privilege to practice of the **RESPONDENT, SCOTT W. MCLEAN, LICENSE NUMBER R-851779**, pursuant to Section 73-15-29 of the Mississippi Code of 1972, as amended.

The hearing was held pursuant to Section 73-15-31 of the Mississippi Code of 1972, as amended, and pursuant to any and all other applicable Mississippi laws and regulations.

The Board has jurisdiction over the party and the subject matter.

The **RESPONDENT, SCOTT W. MCLEAN**, was not present at the Board Hearing and was not represented by Counsel at such hearing. Having been properly noticed, having been called and having failed to appear, the Board's Hearing Panel proceeded in the absence of **SCOTT W. MCLEAN**.

The Board's Hearing Panel consisted of Dwayne Self, CRNA, Tina Johnson, LPN, and Opal Ezell, LPN. Cathy Williamson, CNM, served as an alternate but did not participate in either the deliberations or decision.

The Board's Hearing Panel received and heard sworn testimony at the hearing. Based on the sworn testimony and the evidence admitted into the record at the hearing, the Hearing Panel of the Board of Nursing makes the following **FINDINGS OF FACT** and **CONCLUSIONS OF LAW**:

FINDINGS OF FACT

1. The Board's Hearing Panel finds that **RESPONDENT** was properly noticed of the Complaint and the date and time of the hearing in accordance with statutory law.
2. The Board's Hearing Panel finds that **RESPONDENT** was not present at the Board hearing and was not represented by an attorney at such hearing.
3. The Board's Hearing Panel finds that **RESPONDENT** is guilty of Charge I, in that **RESPONDENT** violated Miss. Code Ann. 73-15-29 (1)(k) in that **RESPONDENT** engaged in conduct likely to deceive, defraud or harm the public.
4. The Board's Hearing Panel finds that **RESPONDENT** is guilty of Charge II, in that **RESPONDENT** violated Miss. Code Ann. 73-15-29 (1)(e) in that **RESPONDENT** has negligently or willfully practiced nursing in a manner that fails to meet generally accepted standards of such nursing practice. **COUNT A:** On or about 12/14/2010 **RESPONDENT** was arrested by the Jackson Police Department and charged with three (3) counts of Sexual Battery to patient S while employed at Central Mississippi Medical Center. Specifically, **RESPONDENT** massaged the Vagina of patient S on three (3) or four (4) different occasions until she climaxed. Patient S was heavily sedated on each of these occasions.

CONCLUSIONS OF LAW

1. That the Mississippi Board of Nursing has jurisdiction over the party and the subject matter.

2. The **RESPONDENT'S** conduct constitutes sufficient grounds for the revocation of the **RESPONDENT'S LICENSE NUMBER R-851779**, and privilege to practice as a nurse in the State of Mississippi pursuant to Section 73-15-29 of the Mississippi Code of 1972, as amended.

3. By clear and convincing evidence, the **RESPONDENT, SCOTT W. MCLEAN, LICENSE NUMBER R-851779**, violated Sections 73-15-29 (1)(k) and (1)(e) of the Mississippi Code of 1972, as amended, as set forth above.

Based upon the above **FINDINGS OF FACT** and **CONCLUSIONS OF LAW**, the Hearing Panel of the Board hereby **ORDERS** that the **RESPONDENT, SCOTT W. MCLEAN, LICENSE NUMBER R-851779**, shall be and is hereby found guilty of **CHARGE I** and **CHARGE II** in the Complaint.

IT IS ORDERED BY THE HEARING PANEL OF THIS BOARD that the nursing license and privilege to practice of the **RESPONDENT, SCOTT W. MCLEAN, LICENSE NUMBER R-851779**, shall be and is hereby **REVOKED** as a result of the herein guilty findings.

IT IS FURTHER ORDERED BY THE HEARING PANEL OF THIS BOARD that the penalty of revocation shall be imposed for each of the herein guilty findings. Said penalties shall be considered separate and distinct and shall run concurrently with each other.

Please be advised that you have a right to appeal the decision of the Board's Hearing Panel to the full membership of the Mississippi Board of Nursing in accordance with Section 73-15-31 of the Mississippi Code of 1972, as amended.

A copy of this Order shall be served upon the RESPONDENT, SCOTT W. MCLEAN,
LICENSE NUMBER R-851779, by Certified Mail-Restricted Delivery, Return Receipt
Requested.

SO ENTERED, THIS THE 22 DAY OF FEBRUARY, 2011.

MISSISSIPPI BOARD OF NURSING

BY:

Melinda E. Rush

MELINDA E. RUSH, DSN, FNP
EXECUTIVE DIRECTOR

(BOARD SEAL)

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EXHIBIT B
FINAL ORDER OF THE LOUISIANA BOARD

Louisiana State Board of Nursing

17373 Perkins Road
Baton Rouge, LA 70810
Telephone: (225) 755-7500 Fax: (225) 755-7582
<http://www.lsbnp.state.la.us>

Certified Mail/Return Receipt Requested

May 19, 2011

SCOTT WINN MCLEAN
1210 PARKLANE ROAD APT 7D
MCCOMB, MS 39648

Dear Mr. MCLEAN:

The Board of Nursing received notification that on February 22, 2011, the Mississippi Board of Nursing revoked your license to practice as a Registered Nurse in the state of Mississippi.

You are herewith notified that, in accordance with the Rules of the Louisiana State Board of Nursing, particularly LAC 46:XLVII.3411.I, your Louisiana Registered Nurse license is automatically suspended until such time as the matter is cleared with the Mississippi Board of Nursing.

Therefore, your Louisiana RN license is suspended and you are hereby directed to return your 2011 RN license to the Board of Nursing.

This will be reported to the Healthcare Integrity and Protection Data Bank (HIPDB) as 39, License Revocation, Suspension or Other Disciplinary Action Taken by a Federal, State or Local Licensing Authority.

HIPDB Narrative: RN's license was automatically suspended after Mississippi Board of Nursing revoked RN's Mississippi RN license.

If you are able to show error in the staff's action then you must so notify the Board in writing within ten (10) days of this date.

If at sometime in the future you can present evidence to the Board that your problems have been alleviated, you may request a hearing for the purpose of having the Board consider the reinstatement of your license.

LOUISIANA STATE BOARD OF NURSING



Barbara L. Morvant, MN, RN
Executive Director